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INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)


Applicant's or agent's file reference 74660 TN/kp	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/DK 02/00632	International filing date (day/month/year) 25.09.2002	Priority date (day/month/year) 25.09.2002
International Patent Classification (IPC) or both national classification and IPC A01C1/04		
Applicant BENTLE PRODUCTS AG		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.
- ☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 23 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the International application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 21.04.2004	Date of completion of this report 27.12.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Baltanás y Jorge, R Telephone No. +49 89 2399-7668



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I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*):

Description, Pages

1, 2, 2a, 3-15 received on 01.12.2004 with letter of 30.11.2004

Claims, Numbers

1-16 received on 01.12.2004 with letter of 30.11.2004

Drawings, Sheets

1/4, 4/4 received on 26.11.2002 with letter of 06.11.2002

2/4, 3/4 received on 01.12.2004 with letter of 30.11.2004

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☒ the description, pages: 16
☒ the claims, Nos.: 17-30
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-16
	No: Claims	
Inventive step (IS)	Yes: Claims	1-16
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-16
	No: Claims	

2. Citations and explanations

see separate sheet

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Reference will be made to the following documents along the procedure:

- D1: WO 01/56361 A (BENTLE PRODUCTS AG ;AHM POUL HENRIK (ES)) 9
August 2001 (2001-08-09)
D2: US-A-5 226 255 (ROBERTSON DAVID W) 13 July 1993 (1993-07-13)

ITEM V

Independent claim 1

Document D1 discloses a seed tape (1) including successively arranged germinating units (1b, 1c), and which further includes at least one carrier strip (1') as well as at least one layer (1'') of biodegradable, gas-permeable material arranged on said carrier strip (1'), whereby each germinating unit (1b, 1c) includes a mixture of carrier (8) and at least one additive (10) in addition to one or more seeds (5), where the layer of biodegradable, gas-permeable material (1'') is flexible and non-woven (see page 5, lines 14 and 15, and also page 12, lines 2 to 4) and that said additive or additives (10) is/are water-absorbing.

Difference between claim 1 and D1 is that the biodegradable, gas-permeable material which is flexible and non-woven is made of polylactide (PLA) or a material including said polylactide, or is made of rayon, viscose or polylactide plus starch.

The subject-matter of claim 1 is therefore novel (Article 33(2) PCT).

The missing features solve the problem of providing a material which is more resistant in view of the use of the seed tape than the conventional ones.

No document of the considered prior art discloses or gives any hint in the direction of the missing features, not being obvious for the person skilled in the art to provide such a synthetic material when biodegradability is required in the aforementioned material.

The solution to the problem proposed in claim 1 of the present application is considered therefore as involving an inventive step (Article 33(3) PCT).

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Dependent claims 2-16

Since claims 2 to 16 depend on a new and inventive claim, their subject-matter is considered as well as being new and inventive.

The amendments filed with the letter dated 30-11-2004 introduce in claims 8 and 9 subject-matter which extends beyond the content of the application as filed, contrary to Article 34(2)(b) PCT. The amendments concerned are the following:

1- Deletion of the words "the flexible non-woven layer is PLA" in claim 8 (in comparison to original claim 15) which would broaden the described way of welding to other materials than PLA.

2- Deletion of the words "and a thickness of 0.1 to 0.2 mm" in claim 9 (in comparison to original claim 16) which would broaden the kind of fibres which can be used in the invention.

The industrial applicability of the invention is obvious.

Further comments

The amendments filed with the letter dated 30-11-2004 introduce subject-matter in the description which extends beyond the content of the application as filed, contrary to Article 34(2)(b) PCT. The amendments concerned are the following:

1- Deletion of the words "and that said additive or additives are water-absorbing" from line 4 of page 3 (in comparison to original page 3) which would imply that said additives do not form part of the invention.

2- Addition of the words "The biodegradability is very high as well" in lines 19 and 20 of page 3 (in comparison to original page 3) which adds subject-matter for which no basis can be found in the application as filed.

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3- Deletion of the words "when the flexible non-woven layer is PLA" from line 4 of page 6 (in comparison with original page 6) as already explained for claim 8.

4- Substitution of reference to figure 1 by figure 3 in line 11 of page 14 (in comparison to original page 14) which would imply that the paper piece is intended to be used on an embodiment which is different from the one which was originally meant.